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8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA  
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11 BARRY SHY, an individual;  
12 MANHATTAN LOFT, LLC, a  
13 California limited liability company,

14 Plaintiffs,

15 v.

16 THE INSURANCE COMPANY OF  
17 THE STATE OF PENNSYLVANIA, a  
18 corporation; and DOES 1-40 inclusive,

19 Defendants.  
20

CASE NO.: CV10-1415 DSF (MANx)

**PROTECTIVE ORDER ENTERED  
PURSUANT TO THE PARTIES'  
STIPULATION**

21 Pursuant to Rule 26(c) of the Federal Rules of Civil Procedure and based on the  
22 parties' Stipulated Protective Order ("Stipulation") filed on March 22, 2011, the terms  
23 of the protective order to which the parties have agreed are adopted as a protective  
24 order of this Court, which generally shall govern the pretrial phase of this action, except  
25 to the extent, as set forth below, that those terms have been substantively modified by  
26 the Court's amendment of Sections 5.2(b), 9(a), 11, and 12.3 of the Stipulation.  
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28

1       The parties are expressly cautioned that the designation of any information,  
2 document, or thing as “CONFIDENTIAL,” or other designation(s) used by the parties,  
3 does not, in and of itself, create any entitlement to file such information, document, or  
4 thing, in whole or in part, under seal. Accordingly, reference to this Protective Order or  
5 to the parties’ designation of any information, document, or thing as  
6 “CONFIDENTIAL,” or other designation(s) used by parties, is wholly insufficient to  
7 warrant a filing under seal.

8       There is a strong presumption that the public has a right of access to judicial  
9 proceedings and records in civil cases. In connection with non-dispositive motions,  
10 good cause must be shown to support a filing under seal. The parties’ mere designation  
11 of any information, document, or thing as “CONFIDENTIAL,” or other designation(s)  
12 used by parties, does not — without the submission of competent evidence, in the form  
13 of a declaration or declarations, establishing that the material sought to be filed under  
14 seal qualifies as confidential, privileged, or otherwise protectable — constitute good  
15 cause.

16       Further, if sealing is requested in connection with a dispositive motion or trial,  
17 then compelling reasons, as opposed to good cause, for the sealing must be shown, and  
18 the relief sought shall be narrowly tailored to serve the specific interest to be protected.  
19 *See Pintos v. Pacific Creditors Ass’n*, 605 F.3d 665, 677-79 (9th Cir. 2010). For each  
20 item or type of information, document, or thing sought to be filed or introduced under  
21 seal in connection with a dispositive motion or trial, the party seeking protection must  
22 articulate compelling reasons, supported by specific facts and legal justification, for the  
23 requested sealing order. Again, competent evidence supporting the application to file  
24 documents under seal must be provided by declaration.

25       Any document that is not confidential, privileged, or otherwise protectible in its  
26 entirety will not be filed under seal if the confidential portions can be redacted. If  
27 documents can be redacted, then a redacted version for public viewing, omitting only  
28 the confidential, privileged, or otherwise protectible portions of the document, shall be

1 filed. Any application that seeks to file documents under seal in their entirety should  
2 include an explanation of why redaction is not feasible.

3 **THE PARTIES ARE DIRECTED TO REVIEW CAREFULLY AND ACT**  
4 **IN COMPLIANCE WITH ALL ORDERS ISSUED BY THE HONORABLE**  
5 **DALE S. FISCHER, UNITED STATES DISTRICT JUDGE, INCLUDING**  
6 **THOSE APPLICABLE TO PROTECTIVE ORDERS AND FILINGS UNDER**  
7 **SEAL.**

8  
9 **TERMS OF PROTECTIVE ORDER**

10 **1. [OMITTED BY THE COURT]**

11 **2. DEFINITIONS**

12 2.1 **Challenging Party:** a Party or Non-Party that challenges the designation  
13 of information or items under this Protective Order.

14 2.2 **"CONFIDENTIAL" Information or Items:** information (regardless of  
15 how it is generated, stored or maintained) or tangible things that qualify  
16 for protection under Federal Rule of Civil Procedure 26(c).

17 2.3 **Counsel (without qualifier):** Outside Counsel of Record and House  
18 Counsel (as well as their support staff).

19 2.4 **Designating Party:** a Party or Non-Party that designates information or  
20 items that it produces in disclosures or in responses to discovery as  
21 "CONFIDENTIAL."

22 2.5 **Disclosure or Discovery Material:** all items or information, regardless  
23 of the medium or manner in which it is generated, stored, or maintained  
24 (including, among other things, testimony, transcripts, and tangible  
25 things), that are produced or generated in disclosures or responses to  
26 discovery in this matter.

1       2.6   **Expert:** a person with specialized knowledge or experience in a matter  
 2           pertinent to the litigation who has been retained by a Party or its counsel  
 3           to serve as an expert witness or as a consultant in this action.

4       2.7   **House Counsel:** attorneys who are employees of a party to this action.  
 5           House Counsel does not include Outside Counsel of Record or any other  
 6           outside counsel.

7       2.8   **Non-Party:** any natural person, partnership, corporation, association, or  
 8           other legal entity not named as a Party to this action.

9       2.9   **Outside Counsel of Record:** attorneys who are not employees of a party  
 10          to this action but are retained to represent or advise a party to this action  
 11          and have appeared in this action on behalf of that party or are affiliated  
 12          with a law firm which has appeared on behalf of that party.

13      2.10 **Party:** any party to this action, including all of its officers, directors,  
 14          employees, consultants, retained experts, and Outside Counsel of Record  
 15          (and their support staff).

16      2.11 **Producing Party:** a Party or Non-Party that produces Disclosure or  
 17          Discovery Material in this action.

18      2.12 **Professional Vendors:** persons or entities that provide litigation support  
 19          services (e.g., photocopying, videotaping, translating, preparing exhibits  
 20          or demonstrations, and organizing, storing, or retrieving data in any form  
 21          or medium) and their employees and subcontractors.

22      2.13 **Protected Material:** any Disclosure or Discovery Material that is  
 23          designated as "CONFIDENTIAL."

24      2.14 **Receiving Party:** a Party that receives Disclosure or Discovery Material  
 25          from a Producing Party.

### 26   3.    **SCOPE**

27          The protections conferred by this Protective Order cover not only Protected  
 28   Material (as defined above) but also (1) any information copied or extracted from

1 Protected Material; (2) all copies, excerpts, summaries, or compilations of Protected  
2 Material; and (3) any testimony, conversations, or presentations by Parties or their  
3 Counsel that might reveal Protected Material. However, the protections conferred by  
4 this Protective Order do not cover the following information: (a) any information that  
5 is in the public domain at the time of disclosure to a Receiving Party or becomes part of  
6 the public domain after its disclosure to a Receiving Party as a result of publication not  
7 involving a violation of this Protective Order, including becoming part of the public  
8 record through trial or otherwise; and (b) any information known to the Receiving Party  
9 prior to the disclosure or obtained by the Receiving Party after the disclosure from a  
10 source who obtained the information lawfully and under no obligation of confidentiality  
11 to the Designating Party. Any use of Protected Material at trial shall be governed by a  
12 separate order.

#### 13 **4. DURATION**

14 Even after final disposition of this litigation, the confidentiality obligations  
15 imposed by this Protective Order shall remain in effect until a Designating Party agrees  
16 otherwise in writing or a court order otherwise directs. Final disposition shall be  
17 deemed to be the later of: (1) dismissal of all claims and defenses in this action, with or  
18 without prejudice; and (2) final judgment herein after the completion and exhaustion of  
19 all appeals, rehearings, remands, trials, or reviews of this action, including the time  
20 limits for filing any motions or applications for extension of time pursuant to applicable  
21 law.

#### 22 **5. DESIGNATING PROTECTED MATERIAL**

##### 23 **5.1 Exercise of Restraint and Care in Designating Material for Protection**

24 Each Party or Non-Party that designates information or items for  
25 protection under this Protective Order must take care to limit any such  
26 designation to specific material that qualifies under the appropriate  
27 standards. The Designating Party must designate for protection only those  
28 parts of material, documents, items, or oral or written communications

1 that qualify – so that other portions of the material, documents, items, or  
2 communications for which protection is not warranted are not swept  
3 unjustifiably within the ambit of this Protective Order.

4 Mass, indiscriminate, or routinized designations are prohibited.  
5 Designations that are shown to be clearly unjustified or that have been  
6 made for an improper purpose (*e.g.*, to unnecessarily encumber or retard  
7 the case development process or to impose unnecessary expenses and  
8 burdens on other parties) expose the Designating Party to sanctions.

9 If it comes to a Designating Party's attention that information or  
10 items that it designated for protection do not qualify for protection, that  
11 Designating Party must promptly notify all other Parties that it is  
12 withdrawing the mistaken designation.

## 13 **5.2 Manner and Timing of Designations**

14 Except as otherwise provided in this Protective Order (*see, e.g.*, the  
15 second paragraph of Section 5.2(a) below), or as otherwise stipulated or  
16 ordered, Disclosure or Discovery Material that qualifies for protection  
17 under this Protective Order must be clearly so designated before the  
18 material is disclosed or produced or within 30 days of entry of this  
19 Protective Order, whichever is later. Designation in conformity with this  
20 Protective Order requires:

### 21 (a) Documents

22 For information in documentary form (*e.g.*, paper or electronic  
23 documents, but excluding transcripts of depositions or other pretrial  
24 or trial proceedings), that the Producing Party affix the legend  
25 "CONFIDENTIAL" to each page that contains protected material. If  
26 only a portion or portions of the material on a page qualifies for  
27 protection, the Producing Party also must clearly identify the  
28

1                   protected portion(s) (*e.g.*, by making appropriate markings in the  
2                   margins).

3                   A Party or Non-Party that makes original documents or materials  
4                   available for inspection need not designate them for protection until  
5                   after the inspecting Party has indicated which material it would like  
6                   copied and produced. During the inspection and before the  
7                   designation, all of the material made available for inspection shall be  
8                   deemed “CONFIDENTIAL.” After the inspecting Party has identified  
9                   the documents it wants copied and produced, the Producing Party  
10                  must determine which documents, or portions thereof, qualify for  
11                  protection under this Protective Order. Then, before producing the  
12                  specified documents, the Producing Party must affix the  
13                  “CONFIDENTIAL” legend to each page that contains Protected  
14                  Material. If only a portion or portions of the material on a page  
15                  qualifies for protection, the Producing Party also must clearly identify  
16                  the protected portion(s) (*e.g.*, by making appropriate markings in the  
17                  margins).

18                 Material that is produced by a third-party pursuant to a subpoena  
19                 or by the opposing party within the litigation, may be designated by a  
20                 Party as “CONFIDENTIAL.” For purposes of this paragraph,  
21                 “maintained as confidential” means that the material would not be  
22                 produced to the public absent a subpoena. The Party has 30-days  
23                 from receipt of the subpoenaed documents or from entry of this  
24                 Protective Order, whichever is later, to designate subpoenaed  
25                 documents as “CONFIDENTIAL.” For material produced by a third-  
26                 party pursuant to a subpoena following the date of entry of this  
27                 Protective Order, all such subpoenaed material shall be deemed  
28                 “CONFIDENTIAL” for the 30-day period following its initial receipt

by a Party desiring to designate documents as “CONFIDENTIAL.”  
 Notwithstanding the foregoing, in no event will records otherwise  
 available to the public be deemed “CONFIDENTIAL.”

(b) Testimony

For testimony given in depositions, that the Designating Party  
 identify on the record, before the close of the deposition, all protected  
 testimony.

(c) Other Information and Tangible Items

For information produced in some form other than documentary  
 and for any other tangible items, that the Producing Party affix in a  
 prominent place on the exterior of the container or containers in  
 which the information or item is stored the legend  
 “CONFIDENTIAL.” If only a portion or portions of the information  
 or item warrant protection, the Producing Party, to the extent  
 practicable, shall identify the protected portion(s).

**5.3 Inadvertent Failures to Designate**

If timely corrected, an inadvertent failure to designate qualified  
 information or items does not, standing alone, waive the Designating  
 Party’s right to secure protection under this Protective Order for such  
 material. Upon timely correction of a designation, the Receiving Party  
 must make reasonable efforts to assure that the material is treated in  
 accordance with the provisions of this Protective Order.

**6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

**6.1 Timing of Challenges**

Any Party or Non-Party may challenge a designation of  
 confidentiality at any time. Unless a prompt challenge to a Designating  
 Party’s confidentiality designation is necessary to avoid foreseeable,  
 substantial unfairness, unnecessary economic burdens, or a significant



1 disruption or delay of the litigation, a Party does not waive its right to  
2 challenge a confidentiality designation by electing not to mount a  
3 challenge promptly after the original designation is disclosed.

#### 4 **6.2 Notice of Challenge**

5 The Challenging Party shall initiate the dispute resolution process  
6 by providing written notice of each designation it is challenging and  
7 describing the reasons and bases for each challenge. To avoid ambiguity  
8 as to whether a challenge has been made, the written notice must recite  
9 that the challenge to confidentiality is being made in accordance with this  
10 specific Section of the Protective Order.

#### 11 **6.3 Meet and Confer**

12 The parties shall attempt to resolve each challenge in good faith and  
13 must begin the process by conferring directly within 14 days of the date of  
14 service of notice. The parties should attempt to engage in voice to voice  
15 dialogue *in lieu* of, or in addition to, written conferral. The Challenging  
16 Party must explain the reasons and bases for the belief that the  
17 confidentiality designation was not proper and must give the Designating  
18 Party an opportunity to review the designated material, to reconsider the  
19 circumstances, and, if no change in designation is offered, to explain the  
20 basis for the chosen designation. A Challenging Party may proceed to the  
21 next stage of the challenge process only if it has engaged in this meet and  
22 confer process first or establishes that the Designating Party is unwilling  
23 to participate in the meet and confer process in a timely manner.

#### 24 **6.4 Judicial Intervention**

25 If the Parties cannot resolve a challenge without intervention of the  
26 Court, the Designating Party shall file and serve a motion to retain  
27 confidentiality within 21 days of the initial notice of challenge or within  
28

1 14 days of the parties agreeing that the meet and confer process will not  
 2 resolve their dispute, whichever is earlier.

3 Each such motion must be accompanied by a competent declaration  
 4 affirming that the movant has complied with the meet and confer  
 5 requirements imposed in the preceding paragraph. Failure by the  
 6 Designating Party to make such a motion including the required  
 7 declaration within 21 days (or 14 days, if applicable) shall automatically  
 8 waive the confidentiality designation for each challenged designation.

9 In addition, the Challenging Party may file a motion challenging a  
 10 confidentiality designation at any time if there is good cause for doing so,  
 11 including a challenge to the designation of a deposition transcript or any  
 12 portions thereof. Any motion brought pursuant to this provision must be  
 13 accompanied by a competent declaration affirming that the movant has  
 14 complied with the meet and confer requirements imposed by the  
 15 preceding paragraph.

16 The burden of persuasion in any such challenge proceeding shall be  
 17 on the Designating Party. Frivolous challenges, and those made for an  
 18 improper purpose (*e.g.*, to harass or impose unnecessary expenses and  
 19 burdens on other parties) may expose the Challenging Party to sanctions.  
 20 Unless the Designating Party has waived the confidentiality designation  
 21 by failing to file a motion to retain confidentiality as described above, all  
 22 parties shall continue to afford the material in question the level of  
 23 protection to which it is entitled under the Producing Party's designation  
 24 until the Court rules on the challenge.

## 25 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

### 26 **7.1 Basic Principles**

27 A Receiving Party may use Protected Material that is disclosed or  
 28 produced by another Party or by a Non-Party in connection with this case

1 only for prosecuting, defending, or attempting to settle this litigation.  
2 Such Protected Material may be disclosed only to the categories of  
3 persons and under the conditions described in this Protective Order.  
4 When the litigation has been terminated, a Receiving Party must comply  
5 with the provisions of Section 13 below (FINAL DISPOSITION).

6 Protected Material must be stored and maintained by a Receiving  
7 Party at a location and in a secure manner that ensures that access is  
8 limited to the persons authorized under this Protective Order.

## 9 **7.2 Disclosure of “CONFIDENTIAL” Information or Items**

10 Unless otherwise ordered by the Court or permitted in writing by  
11 the Designating Party, a Receiving Party may disclose any information or  
12 item designated “CONFIDENTIAL” only to:

13 (a) the Receiving Party’s Outside Counsel of Record in this action, as well  
14 as employees of said Outside Counsel of Record to whom it is  
15 reasonably necessary to disclose the information for this litigation and  
16 who have signed the “Acknowledgment and Agreement to Be Bound”  
17 that is attached hereto as Exhibit A;

18 (b) the officers, directors, and employees (including House Counsel) of the  
19 Receiving Party to whom disclosure is reasonably necessary for this  
20 litigation and who have signed the “Acknowledgment and Agreement  
21 to Be Bound” (Exhibit A);

22 (c) Experts (as defined in this Order) of the Receiving Party to whom  
23 disclosure is reasonably necessary for this litigation and who have  
24 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit  
25 A);

26 (d) the Court and its personnel;

27 (e) court reporters and their staff, professional jury or trial consultants,  
28 mock jurors, and Professional Vendors to whom disclosure is

reasonably necessary for this litigation and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

(f) during their depositions, witnesses in the action to whom disclosure is reasonably necessary and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise agreed by the Designating Party or ordered by the Court. Pages of transcribed deposition testimony or exhibits to depositions that reveal Protected Material must be separately bound by the court reporter and may not be disclosed to anyone except as permitted under this Protective Order.

(g) the author or recipient of a document containing the information or a custodian or other person who otherwise possessed or knew the information.

#### **8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER LITIGATION**

If a Party is served with a subpoena or court order issued in other litigation that compels disclosure of any information or items designated in this action as “CONFIDENTIAL,” that Party must:

- (a) Promptly provide written notification to the Designating Party. Such notification shall include a copy of the subpoena or court order;
- (b) Promptly provide written notification to the party who caused the subpoena or order to issue in the other litigation that some or all of the material covered by the subpoena or order is subject to this Protective Order. Such notification shall include a copy of this Protective Order; and
- (c) Cooperate with respect to all reasonable procedures sought to be pursued by the Designating Party whose Protected Material may be affected.

If the Designating Party timely seeks a protective order or otherwise serves written objections to the production of “CONFIDENTIAL” documents, the Party served with the subpoena or court order shall not produce any information designated in

1 this action as “CONFIDENTIAL” before a determination by the court from which the  
 2 subpoena or order issued, unless the Party has obtained the Designating Party’s written  
 3 permission. The Designating Party shall bear the burden and expense of seeking  
 4 protection in that court of its confidential material – and nothing in these provisions  
 5 should be construed as authorizing a Receiving Party in this action to disobey a lawful  
 6 directive from another court.

7 **9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE**  
 8 **PRODUCED IN THIS LITIGATION**

9 (a) The terms of this Protective Order shall be applicable to information  
 10 produced in this action and designated as “CONFIDENTIAL” by a Non-Party, **who or**  
 11 **which has agreed in writing to be bound by this Protective Order.** Such  
 12 information produced by any such Non-Party in connection with this litigation will then  
 13 be protected by the remedies and relief provided by this Protective Order. Nothing in  
 14 these provisions should be construed as prohibiting a Non-Party from seeking  
 15 additional protections.

16 (b) In the event that a Party is required by a valid discovery request to produce  
 17 a Non-Party’s confidential information in its possession, and the Party is subject to an  
 18 agreement with the Non-Party not to produce the Non-Party’s confidential information,  
 19 then the Party shall:

- 20 1. Promptly provide written notification to the Requesting Party and  
 21 the Non-Party that some or all of the information requested is  
 22 subject to a confidentiality agreement with a Non-Party;
- 23 2. Promptly provide the Non-Party with a copy of the Stipulated  
 24 Protective Order in this litigation, the relevant discovery request(s),  
 25 and a reasonably specific description of the information requested;  
 26 and
- 27 3. Make the information requested available for inspection by the  
 28 Non-Party.

(c) If the Non-Party fails to object or seek a protective order from this Court within 14 days of receiving the notice and accompanying information, the Receiving Party may produce the Non-Party's confidential information responsive to the discovery request. If the Non-Party timely seeks a protective order, the Receiving Party shall not produce any information in its possession or control that is subject to the confidentiality agreement with the Non-Party before a determination by the Court.<sup>1</sup> Absent a Court order to the contrary, the Non-Party shall bear the burden and expense of seeking protection in this Court of its Protected Material.

#### **10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected Material to any person or in any circumstance not authorized under this Protective Order, the Receiving Party must immediately:

- (a) Provide written notification to the Designating Party of the unauthorized disclosures;
- (b) Use its best efforts to retrieve all unauthorized copies of the Protected Material;
- (c) Inform the person or persons to whom unauthorized disclosures were made of all the terms of this Protective Order; and
- (d) Request such person or persons to execute the "Acknowledgment and Agreement to Be Bound" that is attached hereto as Exhibit A.

#### **11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED MATERIAL**

When a Producing Party gives notice to Receiving Parties that certain inadvertently produced material is subject to a claim of privilege or other protection, the obligations of the Receiving Parties are those set forth in Federal Rule of Civil

<sup>1</sup> The purpose of this provision is to alert the interested parties to the existence of confidentiality rights of a Non-Party and to afford the Non-Party an opportunity to protect its confidentiality interests in this Court.

Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure may be established in an e-discovery order that provides for production without prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure of a communication or information covered by the attorney-client privilege or work product protection, the parties may **submit, for the Court's consideration, a jointly proposed order, which sets forth that agreement.**

## **12. MISCELLANEOUS**

### **12.1 Right to Further Relief.**

Nothing in this Protective Order abridges the right of any person to seek its modification by the Court in the future.

### **12.2 Right to Assert Other Objections.**

By stipulating to the entry of this Protective Order no Party waives any right it otherwise would have to object to disclosing or producing any information or item on any ground not addressed in this Protective Order. Similarly, no Party waives any right to object on any ground to use in evidence of any of the material covered by this Protective Order.

### **12.3 Filing Protected Material.**

(i) Without written permission from the Designating Party or Court order secured after appropriate notice to all interested persons, a Party may not file in the public record in this action any Protected Material. **If a Party wishes to submit to the court for filing a document that has been designated "CONFIDENTIAL" by another Party, the submitting Party must give the Designating Party five calendar days notice of intent to file. If the Designating Party objects, it should notify the submitting Party and file an application to file the documents under seal within two court days.**



(ii) A Party who or which seeks to file under seal any Protected Material must comply with Civil Local Rule 79-5. Protected Material may only be filed under seal pursuant to a Court order authorizing the sealing of the specific Protected Material at issue. Pursuant to Civil Local Rule 79-5, a sealing order will issue only upon a request establishing that the Protected Material at issue is privileged, protectable as a trade secret, or otherwise entitled to protection under the law.

(iii) **If the Court grants an application to file documents under seal, the Court's mandatory paper chambers copies must include a complete version of the documents with an appropriate notation identifying the document or the portion of the document that has been filed under seal.**

(iv) If a Receiving Party's request to file Protected Material under seal pursuant to Civil Local Rule 79-5(d) is denied by the Court, then the Receiving Party may file the information in the public record pursuant to Civil Local Rule 79-5(e), unless otherwise instructed by the Court.

### **13. FINAL DISPOSITION**

Within 60 days after the final disposition of this action, as defined in Section 4, each Receiving Party must return all Protected Material to the Producing Party or destroy such material. As used in this paragraph, "all Protected Material" includes all copies, abstracts, compilations, summaries, and any other format reproducing or capturing any of the Protected Material. Upon the receipt of a written request, whether the Protected Material is returned or destroyed, the Receiving Party must submit a written certification to the Producing Party (and, if not the same person or entity, to the Designating Party) by the 60 day deadline that (1) identifies (by category, where appropriate) all the Protected Material that was returned or destroyed and (2) affirms



1 that the Receiving Party has not retained any copies, abstracts, compilations, summaries  
2 or any other format reproducing or capturing any of the Protected Material.  
3 Notwithstanding this provision, Counsel are entitled to retain an archival copy of all  
4 pleadings, motion papers, trial, deposition, and hearing transcripts, legal memoranda,  
5 correspondence, deposition and trial exhibits, expert reports, attorney work product, and  
6 consultant and expert work product, even if such materials contain Protected Material.  
7 Any such archival copies that contain or constitute Protected Material remain subject  
8 to this Protective Order as set forth in Section 4 (DURATION). **The provisions of this**  
9 **Section 13 do not, of course, apply to Protected Material or copies of Protected**  
10 **Material filed with the Court.**

11 **IT IS SO ORDERED.**

12 Dated: March 24, 2011

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15 MARGARET A. NAGLE  
16 UNITED STATES MAGISTRATE JUDGE  
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**EXHIBIT A**  
**ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND**

I, \_\_\_\_\_[print full name],  
of \_\_\_\_\_[print full address], declare  
under penalty of perjury that I have read in its entirety and understand the Protective  
Order that was issued by the Court on \_\_\_\_\_[print full date] in the case  
of Barry Shy, et al. v. Ins. Co. of the State of PA, United States District Court, Central  
District of California Case No. CV10-1415 DSF (MANx).

I agree to comply with and to be bound by all the terms of this Protective Order  
and I understand and acknowledge that failure to so comply could expose me to  
sanctions and punishment in the nature of contempt. I solemnly promise that I will not  
disclose in any manner any information or item that is subject to this Protective Order  
to any person or entity except in strict compliance with the provisions of this Protective  
Order.

I further agree to submit to the jurisdiction of the United States District Court,  
Central District of California for the purpose of enforcing the terms of this Stipulated  
Protective Order, even if such enforcement proceedings occur after termination of this  
action.

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1 I hereby appoint: \_\_\_\_\_  
2 \_\_\_\_\_  
3  
4 [print full name, address and telephone number] as my California agent for service of  
5 process in connection with this action or any proceedings related to enforcement of this  
6 Protective Order.

7  
8 Date: \_\_\_\_\_

9 City and State where sworn and  
10 signed: \_\_\_\_\_

11 Printed name: \_\_\_\_\_

12 Signature: \_\_\_\_\_  
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